

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

MURTAZA ALI,)	
)	
Plaintiff,)	
)	
vs.)	No. CIV-14-1174-C
)	
JUSTIN JONES, et al.,)	
)	
Defendants.)	

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff brought the present action pursuant to 42 U.S.C. § 1983, seeking recompense for alleged violations of his constitutional rights. Consistent with the provisions of 28 U.S.C. § 636(b)(1)(B), this action was referred to United States Magistrate Judge Gary M. Purcell. Judge Purcell entered a Third Supplemental Report and Recommendation (“R&R”) on September 17, 2015, to which Plaintiff timely objected.

The R&R under consideration recommended dismissal of several parts of Plaintiff’s Amended Complaint. In his Objection, Plaintiff fails to offer any fact-based argument demonstrating error in Judge Purcell’s reasoning. Rather, Plaintiff offers little more than legal principles and conclusory assertions that various Defendants violated those principles. Nonetheless, the Court has undertaken a de novo review of the issues. After that review, the Court finds that Judge Purcell’s R&R should be adopted in full.

To the extent Plaintiff attempts to correct the deficiencies by filing a Third Amended Complaint, his efforts fail. Fed. R. Civ. P. 15 permits amendment only once without leave of Court. Further, any such amendment must be made within 21 days of service. Plaintiff’s

Third Amended Complaint fails both. Accordingly, Plaintiff was required to obtain either Defendants' consent or leave of Court before filing the Third Amended Complaint. Because he failed to do either, the Third Amended Complaint will be stricken.

Accordingly, the Court adopts, in full, the Third Supplemental Report and Recommendation of the Magistrate Judge (Dkt. No. 44). Plaintiff's claims seeking damages under 42 U.S.C. § 1983 against Defendant ODOC and the remaining Defendants sued in their official capacities; seeking equitable relief against all Defendants under 42 U.S.C. § 1983 RLUIPA; alleging constitutional deprivations on behalf of other inmates; seeking damages under 42 U.S.C. § 1983 against all individual Defendants alleging Defendants' responses or failure to respond to his grievances violated his First Amendment or due process rights; claims against the individual Defendants in their individual capacities under RLUIPA; seeking damages against ODOC and Defendants in their official capacities under RLUIPA; and seeking relief for Defendants' alleged violations of Oklahoma state laws or for alleged violations of ODOC regulations under 42 U.S.C. § 1983 or RLUIPA are DISMISSED with prejudice. Plaintiff's claim(s) against Defendant Lee for an alleged verbal threat; alleging an Eighth Amendment deprivation stemming from the conditions of his confinement at JCCC; against Defendants ODOC, Jones, Evans, Patton, Knutson, Farris, Powell, Duncan, Lee, Dowling, Sacket, Denton, Drawbridge, and Brown for alleged denial of his right of access to the courts; and under 42 U.S.C. § 1983 against Defendants Farris, Powell, Duncan,

and Lee for retaliatory transfer are DISMISSED without prejudice. Finally, Plaintiff's Third Amended Complaint (Dkt. No. 73) is STRICKEN. The matter is again referred to Judge Purcell consistent with the original Order of Referral.

IT IS SO ORDERED this 27th day of January, 2016.



ROBIN J. CAUTHRON
United States District Judge